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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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SCOTT P. ZIMMERMAN, PLLC		
PO BOX 3822		
CARY, NC 27519		

  

EXAMINER
NGUYEN, DUSTIN

  

ART UNIT	PAPER NUMBER
2154	

  

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/923,320	<b>Applicant(s)</b> SIMPSON, ANITA HOGANS	
	<b>Examiner</b> Dustin Nguyen	<b>Art Unit</b> 2154	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-48,51-54 and 58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-48,51-54 and 58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1, 3-48, 51-54 and 58 are presented for examination.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1, 3-48, 51-54 and 58 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Objections***

3. Claim 16 is objected to because of the following informalities: "the global" should be corrected as "a global". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 30-41 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. It appears claims 30 and 40 would reasonably be interpreted by one of ordinary skill as a system of software per se, failing to fall within a statutory category of invention [ Please see MPEP chapter 2106 ].

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-13, 16-47, 51-54 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonen et al. [ US Patent No 6,575,831 ], in view of Rose [ US Patent Application No 2002/0032631 ].

7. As per claim 1, Gonen discloses the invention as claimed including a method for notifying an offline user of an online user, the method comprising the steps of:

monitoring a total numbers of users who log in to a website [ i.e. when another user arrives at the game ] [ Figure 2; and col 11, lines 43-45 ];

comparing the total number of users to notification criteria of the offline user [ i.e. a user may request to join a game of blackjack only when at least four other players ] [ col 11, lines 47-50 ], the notification criteria specifying a particular number of users that logs in to the website [ i.e. the waiting user may request to be notified when at least a predetermined number of users gather at the game ] [ col 11, lines 44-47 ];

when the total number of users exceeds a preset amount [ i.e. be notified when at least a predetermined number of users ] [ Figure 1; and col 11, lines 34-50 ].

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Gonen does not specifically disclose

sending a notification to the offline user, wherein the notification informs the offline user of an amount of activity in the website.

Rose discloses

sending a notification to the offline user [ i.e. the customer is notify via electronic mail ] [ paragraphs 0005, 0032 ], wherein the notification informs the offline user of an amount of activity in the website [ i.e. the alert is recognized at the host station to send a call-to-action to the user that has been outbid ] [ 50, Figure 2; and paragraphs 0022 and 0024 ].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Gonen and Rose because Rose's teaching of auction site would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

8. As per claim 3, Gonen discloses the website is a chat room and the notification criteria further comprise a topic of discussion [ col 17, lines 28-45 ].

9. As per claim 4, Gonen discloses the website is a game site and the notification criteria further comprise when a high score has been exceeded [ Figure 3; Abstract; col 7, lines 1-7; and col 11, lines 51-col 12, lines 8 ].

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10. As per claim 5, Gonen discloses the website is an auction site and the notification criteria comprise entry of a bid that exceeds a high bid submitted by the offline user [ col 15, lines 44-49; and col 23, lines 13-16 ].

11. As per claim 6, Gonen does not specifically disclose the website is an auction site and the notification criteria comprises a number of bids submitted within a certain duration. Rose discloses the website is an auction site and the notification criteria comprises a number of bids submitted within a certain duration [ i.e. number of bids ] [ Figure 1; and paragraph 0015 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Lipton and Rose because Rose's teaching of auction site would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].

12. As per claim 8, Rose discloses sending an offline communication to the offline user in accordance with the offline user's contact information [ i.e. telephone number ] [ paragraphs 0008, 0009 and 0017 ].

13. As per claim 9, Rose discloses communication device type and an address of the communication device [ paragraph 0032 ].

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14. As per claim 10, Rose discloses a plurality of communication device types of the offline user, addresses for each of the plurality of communication device types, and an order in which to attempt the plurality of communication device types [ i.e. telephone, pager, television ] [ paragraphs 0005, 0017 and 0032 ].

15. As per claim 11, Rose discloses sending the offline communication to one of a wireline telephone, a wireless telephone, a caller identification device, a wireless access protocol device, a one-way pager, and an interactive page [ i.e. telephone, pager ] [ paragraphs 0008, 0009, 0017 and 0032 ].

16. As per claim 12, Rose discloses receiving an indication from the offline user as to whether the offline user will log in to the website [ i.e. respond to call-to-action ] [ paragraphs 0025 and 0026 ]; and reporting the indication to the online user [ i.e. update with new high bid ] [ paragraphs 0027 and 0029 ].

17. As per claim 7, Rose discloses reporting the indication to another offline user [ paragraphs 0004 and 0005 ].

18. As per claim 13, Rose discloses wherein the step of sending the offline communication comprises sending the offline communication to one of a wireline telephone and a wireless telephone [ Figure 2; and col 3, lines 55-col 4, lines 14 ],

wherein the step of receiving the indication comprises receiving input of the offline user through an interactive voice response unit [ i.e. IVR ] [ col 5, lines 6-22 ], and wherein the step of reporting the indication comprise transmitting the indication to the online user through a global computer network [ i.e. computer networks ] [ col 3, lines 44-54 ].

19. As per claim 16, Rose discloses sending the offline communication to one of an interactive pager and a wireless access protocol device [ paragraphs 0008, 0009, 0017 and 0032 ], and wherein reporting the indication comprises transmitting the indication to the online user through the global computer network [ paragraphs 0027-0030 ], and wherein receiving the indication comprises receiving input of the offline user from the interactive pager or the wireless access protocol device [ paragraphs 0024, 0025 and 0032 ].

20. As per claim 17, Gonen does not specifically disclose one of a standard message and a customized message. Rose discloses one of a standard message and a customized message [ paragraphs 0028 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Gonen and Rose because Rose's teaching would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].



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21. As per claim 18, Gonen does not specifically disclose the notification criteria and a time and a date that the notification criteria was satisfied. Rose discloses the notification criteria and a time and a date that the notification criteria was satisfied [ 16, Figure 1; and paragraph 0028 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Gonen and Rose because Rose's teaching would provide a call-to-action which is needed in remote access auctions conducted using information transmission devices which enable bidders to obtain information about items offered for sale and to enter bids for those items from a location remote from the items themselves [ Rose, paragraph 0004 ].
22. As per claim 19, Rose discloses requiring the offline user to provide a passcode before forwarding the offline communication [ i.e. password ] [ paragraphs 0005 and 0025 ].
23. As per claims 20-23, they are rejected for similar reasons as stated above in claims 1, 3, 4 and 5.
24. As per claims 24-29, they are rejected for similar reasons as stated above in claims 8-13.
25. As per claims 30-33, they are rejected for similar reasons as stated above in claims 1, 3, 4 and 5.
26. As per claims 34-39, they are rejected for similar reasons as stated above in claims 8-13.

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27. As per claim 40, it is rejected for similar reasons as stated above in claim 1.
28. As per claim 41, it is rejected for similar reasons as stated above in claims 3-5.
29. As per claim 42, it is rejected for similar reasons as stated above in claim 1.
30. As per claim 43, it is rejected for similar reasons as stated above in claims 3-5.
31. As per claim 44, it is rejected for similar reasons as stated above in claim 8.
32. As per claim 45, it is rejected for similar reasons as stated above in claim 4.
33. As per claims 46 and 47, they are rejected for similar reasons as stated above in claims 11 and 12.
34. As per claims 51 and 52, they are rejected for similar reasons as stated above in claims 1, 5 and 6.
35. As per claim 53, it is rejected for similar reasons as stated above in claim 12.
36. As per claim 54, it is rejected for similar reasons as stated above in claim 5.

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37. As per claim 58, it is rejected for similar reasons as stated above in claims 1, 12 and 13.

38. Claims 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gonen et al. [ US Patent No 6,575,831 ], in view of Rose [ US Patent Application No 2002/0032631 ], and further in view of Liebenow [ US Patent No 6,816,913 ].

39. As per claim 14, Gonen and Rose do not specifically disclose receiving audio input of the offline user and converting the audio input to text for transmission through the global computer network to the online user. Liebenow discloses receiving audio input of the offline user and converting the audio input to text for transmission through the global computer network to the online user [ i.e. speech-to-text ] [ col 4, lines 56-60 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Gonen, Rose and Liebenow because the teaching of Liebenow would provide additional opportunities for reaching the unavailable user [ Liebenow, col 4, lines 60-62 ].

40. As per claim 15, Liebenow discloses receiving audio input of the offline user, recording the audio input as a digital audio file, and transmitting the digital audio file through the global computer network to the online user [ col 1, lines 31-34; and col 4, lines 57-59 ].

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41. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonen et al. [ US Patent No 6,575,831 ], in view of Rose [ US Patent Application No 2002/0032631 ], and further in view of Lipton [ US Patent No 6,728,754 ].

42. As per claims 48, it is rejected for similar reasons as stated above in claims 1 and 13. Furthermore, Gonen and Rose do not specifically disclose instant messaging service. Lipton discloses instant messaging service [ col 1, lines 12-17; and col 2, lines 13-24 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Gonen, Rose and Lipton because the teaching of Lipton would provide additional communication method to immediately notify user without delay.

43. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen  
Examiner  
Art Unit 2154

A handwritten signature in black ink, appearing to read 'Dustin', with a long horizontal flourish extending to the right.